

# TESTIMONY

*Presented to*

THE LOBBYING DISCLOSURE COMMITTEE  
PENNSYLVANIA HOUSE OF REPRESENTATIVES  
AND  
PA DEPARTMENT OF STATE

*Regarding*

Draft State Lobbying Disclosure Regulations pursuant to  
Act 134 of 2006

*Presented by*

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Autism \* Intellectual Disabilities*

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Thank you for the opportunity to provide testimony on the development of regulations pertaining to the Lobbying Disclosure Act (Act 134). My name is Gabrielle Sedor. I am the Communications Director for The Pennsylvania Association of Resources for Autism and Intellectual Disabilities. We are known as PAR.

PAR is a 501(c)(3) nonprofit educational and membership organization that supports over 42,000 individuals with intellectual disabilities as well as over 8,000 people living with autism who receive community services and supports through our member agencies in over 4,500 locations in the Commonwealth.

In the draft regulations it appears that many of the educational and advocacy activities we engage in as part of our mission must now be tracked, recorded, and reported separately through new processes that are being added to the public disclosure that we already have through the 990s and public postings of our comments and public disclosure of proceedings in which we have been a part.

I would appeal to you today that the full value of charities is important to preserve along with full disclosure. If our activities are essentially disclosed elsewhere, then the time taken away from our mission is without a commensurate benefit.

We believe that the two recommendations we are making to you today are in line with that goal and with the Act while making the implementation of the Act more reasonable.

Our primary concerns are focused on two areas. They are:

1. The treatment of activities related to the Regulatory Review Act; and
2. The treatment of activities undertaken by members of an association.

Regarding the first, PAR recommends adding an exemption in the regulations at Section 57.2 that would exempt from reporting our activities undertaken in connection with the Regulatory Review Act and similar activities where materials are already subject to public scrutiny such as comments submitted to an agency on an administrative action.

This recommendation is in line with the Governor's former Executive Order on lobbying, which included an exemption for activities related to the Regulatory Review Act.

Let me tell you why this is important to us.

To carry out our mission, PAR frequently engages in advocacy and educational activities that may now be considered 'lobbying'. In most instances, PAR is solicited for this information by legislators, administration officials, peer organizations, and members of the community. Because we are an educational organization, because our mission is to help improve the quality of services to individuals who have intellectual disabilities and people living with autism, it is our obligation to respond to these requests.

Let me take you through a Day in the Life of PAR.

- At the beginning of the day, our President and CEO will get a ride to the Office of Developmental Program Planning Advisory Committee. This is a stakeholder committee to which she has been appointed to represent PAR on critical policy issues that will affect people with intellectual disabilities and people who are living with autism. She may or may not actively lobby the Deputy Secretary or another member of the Administration during this meeting. The Deputy Secretary, however, understands the value of a partnership with the private sector, and often asks her directly for her recommendations on a particular policy.
- Later that day our Compliance Officer will be checking to see if anyone drove the CEO to the meeting or helped prepare research or materials for the meeting.
- Down the hall, our Policy Director and policy assistant are hard at work drafting comments on recently issued draft service definitions for the Medicaid Waiver program. How Pennsylvania defines the services it will pay for under the Waiver has wide-reaching implications for providers of those services but more importantly, for the people who rely on the services. According to what we are hearing, our time spent researching, collecting comments, reaching consensus among our membership, writing and submitting our comments ALL may count as lobbying-related activities even though our comments are public knowledge and are submitted in response to an official request from the Department.

- On this particular day, I am down the road on Commonwealth Avenue, participating in the Joint State Government Commission's House Resolution 159 Advisory Committee. PAR was named in the legislation that authorized this group and I have been appointed to this Committee. I'll spend my entire day working with other stakeholders and members of the State Government Commission to try to find ways to address the Commonwealth's Waiting List for Mental Retardation Services, the list contains over 20,000 people who need services and can't get them. When I get back to the office, I will write a PAR Mail (which is our electronic publication to our members) and post information to our website. I will spend a good amount of time on the phone with our Compliance Officer, just trying to figure out what is reportable and what is not.
- In the PAR workroom, two other staff are making copies, and stuffing envelopes with letters that we have written supporting or opposing a particular piece of legislation all of which directly impacts the lives of people living with disabilities. All staff time, as well as the materials and postage we are using for the mailing, we are tracking and reporting separately – even though these costs are already reported on our IRS 990 tax form in another way.
- One example of legislation that we are working with is directly and negatively impacting individuals' ability to get appropriate medical care. Individuals with mental retardation are right now as I speak being denied medical treatment because there is confusion around the interpretation of Act 169 of 2006 regarding who can and cannot authorize treatment and under what circumstances. Since our mission is to improve the quality of services to people with mental retardation and people living with autism, we have to provide good information on those critical issues.
- Lastly, our Compliance Officer and Senior Policy Analyst, will spend 20% of her day on compliance-related work. She is a skilled researcher who used to spend 95% of her day researching issues and providing information and other factual evidence that legislators and the administration as well as our members could use to make the best use of our resources in providing services to people with disabilities.

At the end of the quarter, our Compliance Officer will add up all of our "lobbying" minutes, separate them into various categories, send them to our accountant who will put them into a formula that an independent accounting firm developed for this purpose, and go through other processes to submit the report.

For small nonprofits that are already subject to stringent oversight as 501(c)(3)s, this is a real burden and a real cost. It costs thousands of dollars because we want to be totally compliant down to the letter of the law. In PAR's office alone, we estimate the amount spent on reading and analyzing the lobbying law and related materials (which included the assistance of outside legal counsel and an outside accounting firm as well as work by our internal compliance officer), to develop compliance methods for tracking and reporting, as well as staff training, to be thousands of dollars. And the costs are not just start-up costs.

We understand and agree with the legislature's desire for transparency. That is why we report our legislative activity on our IRS 990s every year. That is why all of our comments and recommendations to the legislature and administration are public knowledge, part of public record, accessible and available to anyone who wants to see them.

You invited us to come here and present testimony today. We were happy to accept. But now I must track and report the time I spent preparing my testimony, including the conversations I had with our Compliance Officer, the time I am spending talking to you right now and I must remember to tell our Compliance Officer who drove me to the hearing and who made our 20 copies and it is all put into a formula to additionally calculate proportionate overhead costs.

When we are invited to give comment, how is that different than being appointed to sit on an advisory committee? The latter activity is exempt (if the person is NOT a registered lobbyist). The only difference is that in one situation our comments are submitted in written form, the other verbally.

**PAR believes this exemption should include requests for testimony by legislators and official requests for comments.** While this type of information is not specifically included under the scope of the Regulatory Review Act (which is limited to the

regulatory process), it is similar in principle as it is all publicly available information and is requested by an entity (that is, the organization or individual is not initiating the communication).

Therefore, PAR is asking you to add that exemption.

Our second recommendation pertains to activities undertaken by our members under the guidance of the association. Our members do not receive any compensation or economic consideration for their volunteer work on PAR's behalf.

As you know, Act 134 Section 13A06(3) exempts individuals from registration if they receive no economic consideration. However, we have heard others express their confusion on this topic and we share the need for clarification that exempts these activities. Therefore, we request that the regulations clarify **that the activities undertaken on behalf of an association by members of an association, where those members receive no economic consideration from the association, are exempt activities.**

Additionally, there are other unintended consequences to be avoided in the drafting of the regulations. I restate that the reporting guidelines as currently drafted appear to be duplicative of existing requirements for nonprofits like 501(c)(3)'s that are already required to report legislative lobbying activities on the IRS Form 990. We question whether the intent of the law was to capture the advocacy and educational efforts nonprofits engage in routinely, particularly since almost all of this information is already in the public domain.

Recent statistics from the National Center for Charitable Statistics (NCCS) indicate that there are 62,000 nonprofit organizations in Pennsylvania alone. Nationally, most nonprofits are small (78% of public charities had budgets under \$100,000 according to recent NCCS statistics) and this statistic is mirrored in Pennsylvania with 73% of registered 501(c)(3) public charities in Pennsylvania having revenues of less than \$100,000 plus 8% having revenues between \$100,000 - \$250,000. This means that 81% of public charities in Pennsylvania fall well under the \$250,000 revenue mark.

Clearly, the majority of nonprofits in the state are operating on relatively small budgets and don't have enough money in the first place for their mission and no extra money to spend on functions that are not mission-critical.

Laws and regulations benefit from the full range of suggestions and recommendations from stakeholders who could be directly impacted by their passage or promulgation. We all lose if we don't achieve transparency through reasonable and clear reporting requirements. If they are not reasonable, eventually our collective voices will be shunted and many voices will disappear.

#### CONCLUSION:

In conclusion, we propose two modifications of the regulations:

Please clarify that ***"Submitting material in connection with the Regulatory Review Act and similar activities where materials are already subject to public scrutiny such as comments submitted to an agency on an administrative action, is exempt from reporting.*** This recommendation is in line with the Governor's former Executive Order on lobbying, which included an exemption for activities related to the Regulatory Review Act.

And please clarify that ***the activities undertaken on behalf of an association by members of an association, where those members receive no economic consideration from the association, are exempt activities.***

Thank you for considering our comments and recommendations. I would be happy to answer any questions you have at this point.